

THE SECRETARY OF STATE
WASHINGTON

December 12, 2016

The Honorable Jeh Johnson
Secretary of the Department of Homeland Security
Washington, DC 20528

Dear Secretary Johnson:

I recommend that you extend the designation of Temporary Protected Status (TPS) for Haiti upon expiration on July 22, 2017, because certain extraordinary and temporary conditions related to the 2010 earthquake continue to exist. I do not recommend that you re-designate Haiti for TPS based upon the impact of Hurricane Matthew on Haiti.

Haiti's current TPS designation ends July 22, 2017. To help inform your decision, the U.S. Department of State has assessed the country's current conditions. Specific lingering effects of the 2010 earthquake remain in infrastructure, health, sanitation services, and emergency response capacity.

For example, of the original two million people made homeless by the 2010 earthquake, approximately 55,000 remain in camps for internally displaced persons. Gender-based violence in these settlements continue to be a serious concern, and personal security continues to be a serious and pervasive issue. Some of those displaced have moved back to unsafe homes, begun reconstruction of damaged homes without assistance or guidance, or relocated to informal settlements located in hazardous areas. Despite efforts by Haitian authorities and the international community to address these concerns, infrastructure damage to housing in Haiti remain. For these reasons, Haiti lacks capacity to ensure the safe return of the 59,000 TPS beneficiaries residing in the United States. Therefore, I recommend an extension of TPS for Haiti upon its expiration.

At the same time, conditions in Haiti have improved since the earthquake, and Haiti has taken significant steps to improve the stability and the quality of life for its citizens.

For example, one hundred percent of the 10 million cubic meters of earthquake-related rubble has been cleared and there have been improvements to road conditions and infrastructure. Most government offices and ministries destroyed in the earthquake are now housed in temporary facilities, participation rates in primary education have risen from 79 to 90 percent, and tourism arrivals have increased by 10 percent annually from 2012-2015. The impact of Hurricane Matthew in October was limited to three of Haiti's 10 departments, and conditions in Port-au-Prince have returned to normal. For these reasons, the country now has the ability safely to receive traditional levels of returned Haitian nationals, and is currently doing so. Therefore, I do not recommend a re-designation of Haiti for TPS based upon damage from Hurricane Matthew.

Sincerely,

John F. Kerry

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(SBU) DEPARTMENT OF STATE RECOMMENDATION REGARDING
EXTENSION OF TEMPORARY PROTECTED STATUS (TPS)
FOR HAITI (AS OF 11/9/2016)

I. (SBU) Statutory Basis for Designation

A. Armed conflict

1. Is the foreign state currently involved in an ongoing, internal, armed conflict?

(U) No.

- a. If so, would the return of nationals of the foreign state to that state (or to the part of the state) pose a serious threat to their personal safety?

(U) N/A

B. Environmental Disaster

1. Has the foreign state in question experienced an earthquake, flood, drought, epidemic, or other environmental disaster?

(U) Yes. Hurricane Matthew made landfall in Haiti October 4, causing extensive damage to crops, houses, livestock, and infrastructure across Haiti's southern peninsula. As of October 13, the Government of Haiti confirmed 546 fatalities, and it was estimated that 13 percent of the country's populace was in need of post-hurricane humanitarian assistance (806,000 required food assistance and 175,509 remained in evacuation shelters). The number of individuals requiring assistance continues to drop as the Haitian government and international community work on reconstruction efforts.

- a. If so, does there continue to be a substantial, but temporary, disruption of living conditions in the area affected?

(U) Yes, there was substantial but temporary disruption. The largely localized disruption of living conditions following Hurricane Matthew occurred in the Nippes, Grand'Anse, and Sud departments – three of Haiti's 10 departments. These areas are home to 1.4 million of Haiti's total population of 10.7 million. The hurricane otherwise inflicted minimal damage on the remainder of the country, including Port-au-Prince and the second largest city, Cap-Haitien.

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2. Is the foreign state unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state?

(U) No. Daily operations outside of the most affected areas and in Port-au-Prince have returned to normal.

3. Has the foreign state officially requested TPS for its nationals in the United States?

(U) No.

C. Extraordinary and Temporary Conditions

1. Has the foreign state experienced extraordinary and temporary conditions that prevent aliens who are nationals of the state from returning to the state in safety?

(SBU) Yes. Since the catastrophic January 12, 2010, magnitude 7.0 earthquake, which killed approximately 200,000 people and damaged critical infrastructure, country conditions and the Government of Haiti's capacity have improved sufficiently to absorb the return of a moderate flow of Haitian nationals. However, it still lacks the capacity to absorb the approximately 59,000 Haitians residing in the United States under TPS.

(U) While virtually all government offices and ministries were destroyed in downtown Port-au-Prince, most are now housed in temporary facilities. One hundred percent of the 10 million cubic meters of the earthquake-related rubble has been cleared and there have been improvements to road conditions and infrastructure. Furthermore Haiti averaged a 10 percent annual increase in tourism arrivals 2012 - 2015.

(U) There has also been improved access to primary education, resulting in a noticeable increase in participation rates of school-aged children from 79 to 90 percent. However, the quality of education remains a challenge, with only one-third of children aged 14 in the appropriate grade for their ages.

(SBU) While the institutional capacity of the Haitian government to respond adequately to the lingering effects of the earthquake remains weak, the U.S. government has actively worked toward strengthening the Haitian civil service and government service delivery.

(SBU) As of September, of the original two million people made homeless by the 2010 earthquake, approximately 55,000 remain in camps for IDPs.

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Gender-based violence in these settlement areas continues to be a serious concern, and personal security continues to be a serious and pervasive issue. Some of those who were displaced have moved back to unsafe homes, begun reconstruction of damaged homes without assistance or guidance, or relocated to informal settlements located in hazardous areas. Despite efforts by Haitian authorities and the international community to address these concerns, lingering effects of infrastructure damage to housing in Haiti remain as a result of the earthquake remain.

(SBU) The United States and our international partners continue to work to train and support the development and growth of the Haitian National Police (HNP), which has been increasingly perceived as professional and capable of providing security. The HNP is on track to meet its five-year development plan goal of 15,000 officers on the force, allowing it to assume a greater responsibility for security ahead of the drawdown and eventual withdrawal of the United Nations Stabilization Mission in Haiti (MINUSTAH) peacekeeping forces. However, the HNP remains highly concentrated in Port-au-Prince and susceptible to severe budgetary pressures, challenging its ability to guarantee the security of Haitian nationals throughout the country.

(SBU) Overall, despite some improvements, as well as the work of international organizations, agencies, and local NGOs, Haiti continues to lack the adequate infrastructure, health, sanitation services, and emergency response capacity necessary to ensure the personal safety of a large number of TPS returnees in tandem with the resumption of noncriminal deportations.

(SBU) Haiti faces an uncertain security environment at least into early-2017 as a result of a political crisis over the prolonged delay in presidential elections; however, the first round of elections was held November 20, which provides optimism about progress within the country. The Government of Haiti has also indicated a willingness to handle a larger flow of deportations from the United States following the elections, though this is subject to change based on the new government's policy priorities. In the interim, the provisional government faces challenges to its legitimacy and there remains a risk of politically motivated violence.

(SBU) It is unlikely the Government of Haiti could adequately facilitate the simultaneous return and reintegration of the 59,000 nationals currently benefiting from TPS in the United States. In the past, with U.S. government,

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United Nations, International Organization for Migration (IOM), and NGO support, government agencies welcomed an average flow of 30 returnees per week and facilitated their reintegration with financial and logistical support. The Haitian government often experienced difficulties in providing such support and coordination in a timely and consistent manner, however, without support from international and NGO partners. The Government of Haiti would have serious problems shouldering the responsibility for facilitating the reintegration of approximately 59,000 Haitian nationals when the Haiti TPS program would otherwise expire in 2017.

(SBU) The largely localized disruption of living conditions following Hurricane Matthew impacted 13 percent of Haiti's population. Daily operations outside of the most affected areas and in Port-au-Prince have returned to normal. With U.S. government, United Nations, IOM, and NGO support, Haitian government agencies are able to welcome and facilitate the limited return of Haiti's citizens.

2. **Would permitting nationals of the foreign state to remain temporarily in the United States be contrary to the national interest of the United States?**

(SBU) No. While TPS is often conflated with the policy decision to suspend deportations of unauthorized Haitian migrants without U.S. criminal history, it is the latter that truly incentivizes Haitians to travel to the United States. Most are making the dangerous journey from Brazil due to the gradual decline in the availability of jobs in that country. This has resulted in an unprecedented surge of Haitians at the U.S.-Mexico border. In FY 2016, approximately 5,962 Haitians arrived at the U.S.-Mexico border (a 1,679 percent increase from FY 2015). In an effort to dissuade Haitian nationals from migrating to the United States, DHS issued a directive September 22 to resume regular removals of Haitians not covered under TPS. Extending the current TPS protection would only maintain the status quo. By contrast, re-designation of TPS would extend coverage to the many Haitians who entered after 2011 and send a signal that the arduous and dangerous journey to the United States, by land or sea, will eventually lead to regular status in the United States. A renewed surge in illegal migration attempts would also significantly overwhelm DHS' already constrained resources. Due to the current unprecedented surge, DHS has a large in-processing backlog, as well as overcrowding in its detention facilities.

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II. Discretionary Factors

1. What, if any, additional information relevant to this decision should be brought to the attention of DHS?

(SBU) Re-designation of TPS would have severe implications for our partners in Central America who have attempted to manage the thousands of Haitians in transit to the United States. Re-designation would further tax their scant resources as they work to detain and provide necessary humanitarian assistance to Haitians, and possibly undermine their willingness to remove migrants. An extension of TPS for only current beneficiaries, however, in conjunction with a regular, predictable program of deportations for irregular Haitian migrants, would best serve to disincentivize illegal migration.

III. Recommendation for Extension and/or Re-designation

(SBU) Based on the country conditions assessment, and in light of the resumption of noncriminal deportations, the Government of Haiti is unable to properly facilitate the reintegration and guarantee the safety of the approximately 59,000 Haitians who would return to Haiti following expiration of TPS in 2017. Thus, the Department recommends an extension of TPS for current beneficiaries.

(SBU) Furthermore, based on the country conditions assessment, the Department does not recommend a re-designation of TPS as a result of Hurricane Matthew. The Department assesses that Haiti maintains the ability to facilitate the resumption of modest and gradually increasing numbers of removals of unauthorized Haitian migrants without U.S. criminal history in addition to the ongoing deportations of criminal aliens from the United States.

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